

## FORTY-SIXTH DAY.

SENATE CHAMBER.  
AUSTIN, March 6, 1875.

Senate met pursuant to adjournment; roll called; quorum present. Prayer by Rev. Rufus C. Burleson, of Waco.

Senator Hobby, for Committee on Constitutional Amendments, submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Constitutional Amendments, to whom was referred Senate joint resolution No. 452, "Providing for a convention to frame a constitution for the State of Texas," with House amendment thereto, have considered the same, and a majority of your committee instruct me to report the joint resolution and House amendments back to the Senate, and recommend that the Senate concur in the first amendment proposed by the House, striking out the words in line 3, section 4, "shall be a general election," and a majority of said committee, also recommend that the Senate concur in the second amendment proposed by the House, striking out the words "general election" in line 5, sections 4; and a majority of your committee further instruct me to recommend that the Senate do not concur in the third amendment proposed by the House.

HOBBY, for Committee.

Senator Bradley, from Committee on Constitutional Amendments, submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

A minority of your Committee on Constitutional Amendments respectfully recommend that the Senate do not concur in the amendment made by the House of Representatives to Senate joint resolution No. 452, by which said amendment the clause in said joint resolution leaving the question of calling a State constitutional convention to the vote of the people of the State is stricken out, for the following reasons:

First—We believe it a matter of serious doubt whether a majority of the people of the State are, under the pre-

ent surrounding circumstances, in favor of calling a constitutional convention at this time; and that the Legislature, should a majority of the people be opposed to calling a convention, has no right to make such call.

Second—We believe that it is the right of the people of the State to have, and to express at the ballot box, a choice as to whether they will change the present constitution by means of a constitutional convention, or by amendments submitted for ratification in the mode prescribed by said constitution.

Third—There is no fair, satisfactory or conclusive mode of testing the wish of the people of the State on the question of a constitutional convention except the ballot box.

Fourth—The submission of said question, in the manner proposed in said joint resolution, to the vote of the people, will not delay, or obstruct the holding of a convention, in any manner whatever, should such be their wish.

L. D. BRADLEY,  
W. D. WOOD,  
JOHN IRELAND,  
J. L. CAMP.

Senator Bradshaw from Committee on Constitutional Amendments, submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

A minority of your committee on Constitutional Amendments beg leave to recommend, that the Senate concur in the third amendment, as proposed by the House to Senate joint resolution No. 452.

BRADSHAW,  
HOBBY,  
JOSEPH,  
BALL.

Senator Ball introduced a bill, entitled "An act to amend an act to provide for the sale of the alternate sections of land as surveyed by railroad companies, and set apart for the benefit of the common school fund." Read first time and referred to Committee on Public Lands.

The Governor's Private Secretary announced a message from His Excellency, the Governor.

Senator Baker, Chairman Special Committee, on the veto message of His Excellency on Senate bill No. 451, "An act to incorporate the Houston, East and West Texas Rail-

way Company, and to promote the construction of the same," submitted the following report :

*Hon. R. B. Hubbard, President of the Senate :*

The special committee to whom was referred the message of the Governor, returning the bill entitled "An act to incorporate the Houston, East and West Texas Railway Company, and to promote the construction of the railway," with his objections, have duly considered the same, and have directed me to report the accompanying bill with the same title, nearly identical with the original bill, and only modified so as to obviate the objections made by the Governor, and recommend that it be passed.

W. R. BAKER, Chairman.

Senator Shepard introduced a bill entitled "An act to provide for the collection of all back taxes due by railroad companies in this State, and to provide penalties for non-payment of the same." Read first time and referred to Judiciary Committee.

Senator Friend, for Committee on Engrossed Bills, submitted the following report :

*Hon. R. B. Hubbard, President of the Senate :*

Your Committee on Engrossed Bills have carefully examined and compared Senate bill No. 760, "An act to improve the navigation of the Rio Grande, Guadalupe and Colorado rivers, and to grant lands in aid thereof." Senate bill No. 599, "An act to regulate the fees to be paid by the State in felony cases." Senate bill No. 773, "An act to provide for the election of municipal officers in certain cases." Senate bill No. 671, "An act to amend 'an act to establish a Code of Criminal Procedure for the State of Texas,' approved August 26th, 1856." Senate bill No. 750, "An act to regulate assessments in certain cases." Senate bill No. 615, "An act to amend an act amendatory of and supplementary to 'an act to incorporate the Pacific and Great Eastern Railway Company,'" passed May 31st, 1875. Senate bill No. 681, "An act prescribing the mode of service in certain cases;" and find all of same correctly engrossed.

FRIEND, for Committee.

A message from the House announced the passage of the following House bills : House bill No. 689, "An act to amend section sixteen of an act entitled 'an act to incorpo-

rate the Orange, Jasper and Shelby Railroad Company, and to aid in the construction of the same.' "

House bill No. 268, "An act supplementary to and amendatory of an act entitled 'an act to adopt and establish a Penal Code for the State of Texas;'" approved August 26th, 1856.

House bill No. 666, "An act to amend the second section of 'an act to give State aid in the removal of rafts and other obstructions from the Guadalupe and San Antonio rivers;'" passed May 1st, 1874.

House bill No. 790, "An act to amend article 771a of the Penal Code."

House bill No. 834, "An act to incorporate the Jefferson, Linden and Texarkana Railway Company."

Also, Senate bill No. 573, "An act to legalize and make valid certain process issued from the district court of Hunt county."

On motion of Senator Friend, the rules were suspended, and Senate bill No. 478, "An act to regulate the removal and establishment of county seats," was taken up, pending House amendments.

The House amendments were concurred in.

Senator Davenport moved to suspend the rules, take up Senate joint resolution No. 452, "Providing for a constitutional convention," with amendments by the House. Lost.

Senator Russell, Chairman Select Committee, on that portion of the Governor's message relating to "Mexican border troubles," submitted the following report:

*Hon. R. B. Hubbard, President of the Senate, and Guy M. Bryan, Speaker of the House of Representatives:*

Your joint select committee, appointed to consider that portion of the Governor's message relative to the "Mexican border troubles," have been engaged for sometime in the performance of the duty assigned them.

Colonel Jantos Benavides and Capt. Refugio Benavides, of Webb county; and Col. John S. Ford, of Cameron county, Texas; all of them gentlemen of extensive information and large experience upon the line of the Rio Grande river, were summoned and appeared, and testified before the committee. There was also laid before your committee, by His Excellency, the Governor, the sworn statement of thirty-one citizens and residents of the Rio

Grande border, living in the counties of Cameron, Hidalgo and Nueces.

Presentments, or reports from the grand juries of the counties of Kinney and Frio, were also before the committee.

The extensive personal knowledge and acquaintance of the Hon. Louis Cardis, of the House of Representatives, and one of the members of the committee, with the condition of affairs on the El Paso section of the Rio Grande, was also availed of by your committee in the performance of their duty.

The limited fund placed at the disposal of your committee, and the short time allotted to consider the subject matter involved in this inquiry, prevented the calling of more witnesses from other portions of the national border, and precluded a more thorough investigation as to the origin and details of the difficulties, dangers and losses with which our Rio Grande frontier has been visited for several years past.

All of the testimony above referred to, which is herewith submitted, having been carefully considered by your committee, we are instructed to report their findings and conclusions in the premises, to-wit :

*First*—That there exists such a state of disquiet and general feeling of insecurity, both to person and property, along the whole line of the Rio Grande, as to discourage, if not to forbid any growth, prosperity or material development in that portion of our State, and such a wholesale and open robbery, by armed marauders from the Republic of Mexico, of the people of Texas, resident on and adjacent to that border, as to have almost impoverished them, which depredations on the lower Rio Grande, as high up as the county of Starr, are committed exclusively by armed bandits from our neighboring Republic—above said county by marauding Mexicans and Indians.

*Second*—That these raiders and freebooters from Mexico, heavily armed and well mounted, make their incursions in large parties almost daily, and ride defiantly over the back country for the distance of one hundred or more miles from the river, burn isolated dwellings, rob country stores, murder citizens, gather herds of cattle, and return with their plunder to Mexico, and when they reach the west bank of the lower Rio Grande, find refuge and protection—are in perfect safety and enjoy at their pleasure their ill-gotten

gains; and to such an extent do these marauders plunder and murder, that the resident upon his isolated and distant ranch, who may discover them, while gathering their herds of stolen cattle, or passing them to Mexico, is intimidated and hesitates to give information as to their movements, through fear of the terrible and never failing vengeance of the bandit and his confederates in crime.

*Third*—That murders to the number of *one hundred and five* have been proven by the limited evidence before your committee, to have been committed by these bandits and Indians within the past three or four years, in the section of country below Eagle Pass, Mexico, and the murderers invariably find a refuge in Mexico from whence the authorities fail and refuse, with but few exceptions, to return them when demand is made for their extradition. Among the notable instances of crime, where the criminal has been protected and a refuge given in Mexico, your committee mention that of the murder of Mr. Alexander, a quiet and gentlemanly merchant of the city of Brownsville, in 1872. He was traveling in his carriage, in Hidalgo county, upon the high road and in full view of a large settlement was halted and shot by a Mexican desperado. The murder was most wanton and unprovoked, the assassin was not even incited to the bloody deed by any animosity to the unhappy victim of his cruelty, nor does it appear that a desire to rob influenced the act, but that the fiend was actuated solely by a general hate of Americans, and desire to take the life of any whom he might encounter.

The assassin sought protection in Mexico, and it was afforded him; for sometime afterward, and as long as he chose to remain there, he could be seen almost daily in the streets of the city of Matamoras.

A Mr. Swift, an unoffending citizen of Refugio county, who with his wife, was most foully murdered in his house; the murderer sought refuge in Guerro, Mexico, where he was followed by citizens of Texas and identified—demand was made for his extradition, but the Mexican authorities declined to deliver him over to the authorities of his State to answer for his crime. One W. H. Green, as fugitive from justice, because of crimes committed in connection with the Lunatic Asylum, reached Matamoras in his flight from the grasp of the law; on demand for his extradition, he was arrested and held only two or three days, his delivery to the State authorities was refused, and he was permitted to depart towards the interior of Mexico.

And one Alberto Garza, a noted and dangerous bandit chief, the principal actor in many murders, and in the robbery and pillage of the store of Mr. Schubert, at the village of the Concepcion, in Duval county, in 1873, and the store of Mr. Blaine, at Los Olmos, in Nueces county, in 1874, as well as in many other crimes of robbery and murder, is protected and a refuge afforded him in Mexico, from whence he is constantly raiding upon the lives and property of our citizens.

*Fourth*—That on the lower Rio Grande, from Starr county to the Gulf of Mexico, these depredations upon the cattle interest have been so great, and carried on to such an alarming extent, that of the vast herds which, but a few years back, covered the great prairies adjacent to the Mexican border, and which were such a source of profit to the thrifty and hardy herdsmen, and great wealth to the State, scarce TEN per cent to-day remains to compensate the stockraiser for his years and life of labor and toil; and of this amount, unless relief be speedily given, there will soon be not enough left to remind the stockraiser of his once princely wealth and of the almost countless herds which, but a short time since, bore his brand.

*Fifth*—That although our Rio Grande border, on the lower river, has been almost entirely stripped of its wealth, and our citizens impoverished by armed marauders and bandits from Mexico, and the cattle of our people taken by them into the towns and cities, and on to the ranches in that country, our citizens can get no redress from the local authorities on the lower river, in that Republic. They often promise restoration, but more frequently refuse, and when aid and assistance is promised to the Texan owner seeking his stolen stock, he is generally foiled and annoyed with circumlocution until the cattle are made away with, or he abandons his purpose in disgust, and leaves his property with the thief or his employee.

In one instance where stolen cattle were recently restored, the owner was required to pay a duty or tax, upon the plea that the cattle were introduced into Mexico without authority of law. There is much evidence showing that cattle of Texan owners have been found on the several ranches of Gen. Cortina, in Mexico, near Matamoras, and implicating other official with these robberies, from which it seems that if they do not actually participate in these raids, they must certainly connive at the acts and share the profits of the plunder.

*Sixth*—That on the upper Rio Grande, above the county of Starr, while the same character of depredations exists as before described, they are not carried on to such an extent, nor does there seem to be any system or organization among the marauders, as there appears to be below.

Along this line and adjacent country, it appears that ONLY about one-half of the cattle have been driven off by bandit Mexicans and Indians; while the same insecurity to life and property exists, the loss has not been so heavy, principally, your committee infer, because the local authorities of New Laredo, Mexico, and in the State of Nueva Leon, Mexico, do not aid the thief in secreting or protect his plunder.

From the testimony of Col. and Capt. Benavides, both of whom many members of your committee know to be gentlemen of high characters, it appears that the Mexican officials, in the last named places, afford our citizens every facility for recovering their stolen property, and are anxious to cultivate and maintain friendly relations with our people; that the authorities of New Laredo, Mexico, upon Capt. Benavides informing them last summer of the organization of his company, and asking their co-operation, invited the Captain, that should he be in close pursuit, to follow the robbers over the river. The testimony of those gentlemen is very strong and positive, as to the good disposition and just intentions of those officials, and your committee are pleased to report the fact.

*Seventh*—That during the few months of the past year, when Capt. Benavides commanded a company of twenty-five men, in Webb county, and Telesfore Montez, in El Paso county, a similar company, those two counties and adjoining ones were kept quiet and the peace preserved, but since the disbanding of those small companies, the bold and desperate bandit has again begun his work of plunder.

*Eighth*—That notwithstanding it is the duty and obligation of the United States to protect the State of Texas and her citizens against forays and plunder by armed aliens, that duty has been sadly neglected and that obligation disregarded, to the great wrong and injury of the people of Texas; the great doorway between Mexico and Texas has been left almost unguarded—the national forces upon the border, except in a few instances, have been and are utterly inefficient for the service required to protect the Rio Grande



line against such a foe as infests and depredates on that country, the number being too small under the system of management and movement of troops in the regular army to accomplish much good, or to effect the necessary protection, no matter how good may be the intention, or however willing the officers may be to fully discharge their duty in the premises. And although it is the duty of the Mexican Government to restrain the lawless and bandit portion of her population from depredating upon a friendly State, that duty is entirely disregarded, and your committee recommend that complaint thereof be made to the general government by his Excellency, the Governor.

Your committee are decidedly of the opinion, that on the whole line of the Rio Grande, from the Gulf of Mexico to El Paso, at the foot of the mountains, with the exception of in the towns and cities, and under the guns of the United States garrisons and forts, there is no security or protection to the life or the property of the citizen or resident of Texas. The *American citizen* cannot dwell upon *American* soil or travel upon *American* highways, or pursue his daily avocations under the laws and almost in sight of the flag of his country, as it waives above the Federal garrisons, without great risk and danger of forfeiting his life to the vengeance, or of being reduced to the utter poverty, by the cupidity and robbery of armed marauders and bandits from the Republic of Mexico, who make such profitable raids and dangerous forays upon American soil, with impunity.

Your committee would earnestly recommend that suitable provision be made by the Legislature, for the protection, as far as possible, of the lives and property of our citizens on the Mexican border, trusting that ere long the Federal Government may do its full duty in the premises, and not only reimburse the State of Texas for the necessary expenditures in the performance of that duty which rightfully devolves on the general government, but will take such prompt and necessary action as may be required to indemnify our people for their past losses and give ample security for the future.

Your committee would further recommend the adoption of the accompanying joint resolutions.

WM. H. RUSSELL,  
Chairman Senate Committee.

JOHN M. MOORE,  
Chairman House Committee.

Adopted.

Senator Russell introduced a joint resolution, "Instructing and requesting our Representatives in Congress to use their earnest endeavors to procure the passage of a law, or laws, and an appropriation by the Congress of the United States, to give better protection to our Mexican border; to reimburse the State of Texas for expenditures incurred in protecting the line of the Rio Grande river; to indemnify citizens and residents of Texas for losses sustained by armed bandits from the Republic of Mexico, driving off their cattle and horses; and to give security for the future to life and property along the Rio Grande border." Read first time.

On motion of Senator Ireland, the rules were suspended, and joint resolution read second time, and ordered engrossed.

On motion of Senator Russell, the rules were suspended, resolution read third time and passed.

On motion of Senator Westfall, the message of the Governor was taken up and read.

The message was as follows :

EXECUTIVE OFFICE, STATE OF TEXAS, }  
AUSTIN, March —, 1875. }

*Hon. R. B. Hubbard, President of the Senate :*

SIR : I return herewith, without my approval, Senate bill No. 463, being "An act to limit the amount to be issued in bonds of the State to the International Railroad Company, and to adjust all matters of difference between the State and said company."

I decline to approve this bill for the following reasons :

1. The provision for sale to the International Railroad Company, of four installments of State bonds, of \$80,000 each, to be made just at the time that the interest on the subsidy bonds, proposed to be delivered to the company, falls due, and being about the amount of the semi-annual interest that would be due on the bonds claimed by the company for the road already constructed, suggests the idea that these bonds, or their proceeds, are intended to pay that interest, although it is not expressly so stated in this bill. If such be the meaning and intention of the provision, this bill has not been passed by two-thirds majority of both Houses, as is required by section 6, article 12, of the constitution, it being in substance an appropriation.

Again, if the sale of these bonds to the company is intended to pay the interest on the subsidy bonds, the provision clearly violates section 23, article 12, of the constitution, which requires that adequate means be provided by the Legislature, when a debt is created, for the *payment* of the accruing interest, and two per cent. as sinking fund. This provision would not *pay*, but compound and increase the interest. This clause of the constitution has a two-fold purpose, one to check extravagance in the representation, by bringing the burden down immediately on the people, and the other, to prevent the undue accumulation of debt, by requiring gradual extinguishment. Both would be defeated by the provision in question.

Again, if this provision be not one for the payment of interest on the subsidy bonds, it is foreign to the purpose of this bill, and is an object not expressed in its title, and violative of section 17, article 12, of the constitution. The draftsman of this bill seems to have been conscious of the unconstitutionality of the provision for the sale of these bonds, since in addition, there is a clause providing for a tax upon the people to pay the interest and sinking fund of the subsidy bonds.

2. So much of the bill as provides that the company shall pay into the State Treasury two per cent. of the gross earnings of so much of the road as receives the benefit, per mile, of the subsidy, until the same, together with the taxes of every description, paid by the company, shall reimburse the State for the principal and interest of the subsidy bonds, is a delusion and a pretence, without substance and calculated only to mislead. The taxes spoken of, are the lawful taxes which all property in the State must pay, and I cannot see the point in making any mention of them in the bill. The two per cent. of gross earnings is comparatively a pittance. The gross earnings of the consolidated International and Great Northern Railroads for 1874, were less than one and a quarter millions; only half of that, say for two hundred miles, was earned by the International, or about \$600,000 00 in round numbers. Two per cent. on that amount is \$12,000 00, while the annual interest and sinking fund on the subsidy bonds, to be paid by the people, will amount to \$300,000 00. Suppose the International Railroad completed, and the gross earnings five times as much as in 1874, it would be only about \$60,000 00 per annum. But this is not the worst

part of it; even for this pittance, the bill gives the State not only no security, but it would be paid only so long as the company chose to pay it. It will be remembered that the two per cent. of the gross earnings is not a lawful tax imposed by the State on the company. It would be unconstitutional, as a tax, because a greater per cent. than is levied on other property, and not *uniform*, as taxation is required to be. The bill, if approved, would become a law only upon acceptance by the company. The State would acquire the right to the two per cent. of gross earnings by contract with the company, and in that contract would occupy exactly the position that an individual who had contracted with the company would occupy. The State has no other or greater rights than the citizen would have in making the same character of contract with the company. Now it will be remembered that the charter of the International Railroad company expressly authorizes the company to mortgage its franchises, its road beds, stock, property, etc., and in pursuance of that authority the company has mortgaged every mile of its road constructed, and *that to be constructed*, with first mortgages of \$16,000 00 to each mile, and second mortgages of \$10,000 00 per mile, making \$26,000 00 to the mile, with a *first lien* to secure them. The interest on these mortgages is payable semi-annually, and if the company should fail to meet it promptly, at any time when due, the mortgagees have the right to foreclose their lien and sell the road, its franchises and property. If such sale should be made, the purchaser of the road would take it discharged of the incumbrance in favor of the State for the two per cent. gross earnings. Being a subsequent incumbrance, the State's rights under this bill would be cut off and destroyed, the State's bonds would be out in the hands of innocent purchasers, and the people would have them to pay. That the road will be sold out no one doubts, whether it receives the bonds or not. If it is not, it will be an extraordinary exception to the general rule, for I cannot remember a railroad in or out of Texas, at this time, that has not been sold out, and some of them several times. This feature of the bill is a sham, destitute of even the doubtful merit of plausibility. If compelled to approve either the original bill, which gave the three millions openly and directly to the company, or this amended bill which *pretends* to reimburse the people, I do not hesitate to say that I would prefer the former,

because the latter would operate as a fraud upon all who would be deceived by it.

3. After stripping the bill of its delusive drapery of words, its worthless promise to pay two per cent. of its gross earnings to the State, its unconstitutional provision for the company to purchase \$320,000 of State bonds, we find it a square outright donation to the International Railroad Company of \$3,060,000, with a clause providing for taxation on all the property and occupations in Texas, to pay the interest and principal, the first installment of interest being due on the first day of July, 1875. In its first section the bill acknowledges the binding obligation on the State, of the act of the Twelfth Legislature, granting the original subsidy. I can not join in an approval of that act. I have always thought that in the passage of that act the Legislature exceeded its constitutional power in proposing to tax the people for the purpose of making a donation to the International Railroad Company. There is no dispute over the proposition that legitimate taxation is a mode of raising revenues for public purposes only, and that the people can not be constitutionally taxed for the promotion of a private object. I do not believe that a railroad, owned and operated for private benefit, is a public use, to aid in constructing or maintaining which the people may be taxed, simply because the public desires an incidental benefit from it. I can see no difference in the principle between aids to railroad corporations and to other enterprises, such as mills, factories, stage lines, etc., which are beneficial and even indispensable to the public, which no one has ever contended were public uses for which taxes may be levied. The fact that the State delegates her right of eminent domain to enable a railroad company to acquire title to road bed by paying just compensation for it, and reserves power to regulate freights and charges over the road, no more makes it a public corporation, than is a line of hack in a city run under a license from the city authorities whose rates of charges are regulated by city laws, for these reasons a public use or institution which the people may be taxed to support. I hold the belief that railroad companies are private corporations, with no more right to invoke the taxing power of the government in their behalf than has an association of citizens incorporated or unincorporated, engaged in any other business for private profit from which the public desires an incidental benefit.

Nor can I subscribe to the doctrine resorted to, to sustain the exercise by the Legislature of the taxing power in aid of railroads, that the Legislature may do any thing, and everything against which no special prohibition is found in the constitution, but believe with Judge Storey, who in a celebrated case says: "That government can scarcely be deemed free where the rights of property are left solely dependent on the legislative will," and that "the people ought not to be presumed to part with rights so vital to their security and well being without very strong and direct expressions of such an intention." If there is any limit to legislative power, where are we to look for it, if the property or money of the people may be taken from them and given as a donation to one man or an association of men, to be used for private profit.

The statute laws of Texas fix the status of railroad companies as private corporations. Second vol. Paschal's Digest, Art. 5934.

In the celebrated case of the *The People vs. Salem*, decided in 1870, by the Supreme Court of Michigan, Judge Cooley, one of the most profound constitutional lawyers in America—the author of a work on constitutional limitations, which will be a monument to his greatness as long as free government lasts—delivering the opinion of the court, held that "a corporation created for the purpose of constructing a railway, to be owned and operated by the incorporators, is a private corporation, and the road when constructed will not be a public highway, except in a very qualified sense, as it accommodates the travel and traffic of the public, and it is therefore no more a public object than any other private enterprise which also supplies a public want, or furnishes to the public a convenience. Although an incidental benefit may accrue to the public from a private enterprise, yet that will afford no ground for imposing burdens upon the public by way of taxation in behalf of such enterprise." Judge Cooley's opinion in this case has never been answered, and in my judgment, is unanswerable. It may be remarked that Justice Christiancy, recently elected to the Senate of the United States, delivered an able opinion in the same case, fully sustaining the views of Judge Cooley. Chief Justice Campbell, in the same case concurring, used this language: "Taxation is only lawful to enable the government to fulfill its public duties, and to pay such expenses as are incidental

to public business. There is necessarily a considerable discretion to determine what means may be desirable to enable the government to do its work creditably, but a power to tax one citizen for the private emolument of another, upon any theory of mere incidental advantage to the general prosperity of large or small communities, can only rest on a foundation of absolute and irresponsible power to make favorite classes and citizens, and make the whole body of tax payers tributary to them. No such power can be tolerated in a republic, and no hint of such a power is to be found in our constitution."

Again, in 1870, the Supreme Court of Wisconsin, in the case of *Whitney vs. Fond du Lac county*, uses this language: "The question is as to the power of the Legislature to raise money or to authorize it to be raised by taxation, for the purpose of donating it to a private corporation. We held in *Curtis vs. Whipple*, that the Legislature possessed no such power, and the conclusion in that case, we think follows inevitably in this from the principles stated in the opinion."

In *Olcott vs. the Supervisors*, the Supreme Court of the United State, Justice Strong delivering the opinion of the court, reviews the Wisconsin case above mentioned, and combats the conclusions established in it, but it is a noticeable fact, that the Chief Justice and Justices Miller and Davis, perhaps the ablest Judges on that bench, dissent from the opinion of the court as delivered by Justice Strong. Indeed one cannot help observing in an examination of the case on this subject, that those which sustain the taxing power of the legislature, are almost universally decided by divided courts, and rely on adjudged cases, while but few of them combat and many of them concede the correctness of the *principle* which denies the power, but yields to what they take to be the weight of authority. The cases relied on to support the taxing power of the legislature, are also believed without exception, to be those where the *subsidy had been voted by the people*, and went before the courts with the moral support derived from that fact. Judge Cooley says in the case above quoted: "The best judgment of the legal profession so far as I have been able to judge, has always been against this species of railroad aid, and there has been a steady and persistent protest which no popular clamor could silence against decisions."

which support it. This protest has of late been growing stronger instead of fainter, and if the recent decisions are alone regarded, the authority is with the protest. But whether this is so or not, is not of controlling authority here. *We are embarrassed by no decisions in this State, and are at liberty therefore to consider this question on principle*, and when the legal principle which should govern a case, stands out in bold relief, it is manifestly more in accord with a proper discharge of judicial duty that we should reach it with directness, than that we should shut our eyes to the principle and blindly follow where others have blindly led." Will not the Supreme Court of Texas take the same view when this question is presented before them for decision? Many other cases could be cited in support of my views on this question, but those given above are sufficient to present the points. The growing tendency to class legislation, to the extension of the powers of government, to additional modes of interference with rights of person and property, to the building up of great corporation interests, whose power over the government is to be feared, can not be better checked, than by an unyielding restriction of the taxing power to legitimate governmental purposes, and such uses as it is the duty of the government to provide for. The people can be protected from exactions for the enrichment of the few, only by an adherence to this principle. Holding these opinions, and in view of the conflict between the greatest judicial minds of the country over the questions involved, I expressed in my first message, the opinion that the original grant of the subsidy to the International Railroad Company, was of extremely doubtful constitutionality. I then felt, and now feel, an earnest desire to settle this controversy in some way acceptable to the International Railroad Company, that would be acquiesced in by the people. I, at the same time, advised against such a measure as is embodied in this bill, on the ground that it would be as obnoxious to constitutional objections as the original act of the Twelfth Legislature, and that it would be no settlement: that it would be simply a shifting of the trouble into another shape more obnoxious and complicated than that it is now in; that its immediate tendency would be to injure the credit of the State, and depreciate her securities, while ultimately, it might cover the State with the dishonor of repudiation, and as the only final and con-



clusive mode known to me of disposing of the whole subject, and eliminating it from the field of political discussion, recommended a reference of it to the courts for adjudication. This recommendation was made in view of the only proposition of adjustment ever offered by the company, which in substance is that embodied in this bill, and while believing that utterly impracticable, I also believed it as results have shown correctly, the only one the company would entertain or consider.

The convictions then expressed are unchanged, except that they have been strengthened. The bill before me, so far from being a *final settlement* of the controversy, I am more than ever satisfied, if it becomes a law, is the beginning of a contest more bitter and determined, more excited in its character, and infinitely more injurious in its consequences, than any we have yet seen, or have reason to fear from any other course of dealing with the subject. If bonds are issued in accordance with this bill, in defiance of a public sentiment which for five years has been crystalized in opposition to it, which denies your right to issue them, and avows a determination never to pay them, I can but regard the act as a trap and a snare for the unwary who may be seduced into an investment in them, and as the initial step to the possible, not to say probable dishonor of Texas, and the utter destruction of her credit. The people will not stand the additional taxation imposed by this bill without inquiring in the courts into its validity. They are now clamoring for a reduction of taxes, and in some portions of the State are unable to pay the present assessment. So far from being able to reduce the taxes, the receipts in the treasury for the present fiscal year will be insufficient to meet the expenses of the government, and you are now considering whether you will fund the floating debt or issue and sell bonds to pay it. On the first day of September, 1876, \$257,000 of the principal of our bonded debt will be due, and on the first day of January thereafter, \$125,000 more of it will be due, and must be promptly paid. The Comptroller estimates that \$330,000 per annum is necessary to pay interest on the existing public debt. This bill will nearly double that debt. When the present floating debt is funded into interest-bearing shape, as ought to be done during this session, if this bill should become a law, about \$700,000 would be required to pay the interest on the public debt, while the State's revenues the present year,

after deducting the one-fourth ( $\frac{1}{4}$ ) school fund, amounts only to about \$950,000 for defraying all expenses of the government of every character, including interest on the public debt. Money must be raised outside of our ordinary revenues to pay the expenses of this session of the Legislature, and of the constitutional convention, and for repair of public buildings; for construction of two new penitentiaries; for enlargement of the lunatic asylum, and for frontier defense. The great bulk of the property in Texas is inert and unproductive. The people of Massachusetts can more easily pay one and a half ( $1\frac{1}{2}$ ) per cent. than those of Texas can one-half of one per cent. tax.

—This bill would send out the tax gatherer to lay an additional burden upon the people already staggering under as heavy a load of taxation as they are able to bear. No one doubts but that they will contest its validity. As this contest must come, I hold that the honor of the State imperatively demands that her bonds shall not issue until the question is determined, so that if they must issue they will go out bearing the pledge of our people for their redemption. I do verily believe that, to issue bonds as provided in this bill, and send them forth to the world, invested with all the insignia of verity, pledging the faith and credit of Texas, with such a contest impending, before one installment of interest could be paid, would evince a recklessness and want of appreciation of the value of the State's credit and financial honor, that at once would inflict upon her the most serious injury. If, as would certainly be the case, pending the litigation which would ensue, the State should make default in payment of interest on the bonds, all her securities would depreciate in the market, and if the litigation should eventuate in favor of the taxpayers, the bonds which, if issued, should never be questioned, would be repudiated. Texas bonds, after that would be worth less, and the infamy of repudiation would forever rest on the State. It is said that the people will not repudiate the bonds, if we will issue them—that they will pay them rather than bring dishonor on the State. In other words, that by a species of legislative legerdemain, the representatives of the people should place their constituents in a position where, *nolens volens*, right or wrong, they would be compelled to pay in order to save the honor of the State. In the first place, I do not believe that any action we can take will control

the determination of the people on this subject, and in the next, have no hesitation in saying that in a representative government such an argument should find no advocates. It is precisely on this process of reasoning that this company sought, and the Twelfth Legislature granted, the original subsidy; that mountains of debt have been piled on all the States of the South since 1865; that monstrous frauds on the State and National Governments, during the past decade, have been perpetrated; that rings and powerful combinations, composed of men of great wealth and political influence, by the liberal use of money and other means, in the manufacture of a factitious pressure of a false clamor, of an unreal and fraudulent public sentiment for the occasion, have controlled governments and representatives against the will and interest of the people. It is on this argument, aided by the benefits and blandishments which the power of capital can control, that governments in these latter days are diverted from legitimate channels, seduced from their alliance to the people, and subordinated to the interest of rings, jobbers and plunderers. While the great importance of settling this question is admitted, I deem it of infinitely greater moment that it be established beyond question; that the people of Texas can and will control their government against all such influences. The agencies, which for weeks past have beleaguered this Capitol like an investing army, in the interest of the International Railroad Company, are not those of the taxpaying people of Texas. Let us not mistake their clamor for the voice of our constituents. If these influences are once seated in power in Texas, no man can tell when, if ever they will be dislodged, and a debauched government and plundered people will be the inevitable results. Influences like these once reveled in power in the lobbies of this Capitol, and the people trembled for consequences they were powerless to avert. The corruption of that time are still fresh in our memories. The sewers of a plague stricken city are not more unclean than were the channels through which the legislation of the country flowed. The brood of troubles hatched out during that period of corrupt lobby domination, still vex and oppress the people, and to-day we are dealing with the chiefest among them. I ask that we draw upon our bitter experience of that period for wisdom to guide us to-day, and that we permit no influence, no clamor, no combina-

tion, no cunningly wrought delusion on the subject of State credit, and no coalition of individual and local, with corporation interests, to either seduce or drive us into a measure which, if executed, will sorely oppress the general mass of the people, and if successfully resisted will cover the State with the disgrace of repudiation.

The International Railroad Company has made no proposition, and has uniformly refused to entertain or consider one which does not involve an issuance of bonds and an annual collection of money from the people, and a consequent increase of taxes. Their friends have denounced and voted down a proposition to submit the question to the people, and another to refer the controversy to the courts for adjudication. They have voted down a bill granting twenty sections of land to the mile, and exemption from taxation for twenty years. They have, in fine, refused every offer of compromise or adjustment except that one which will put the grip of the tax-gatherer and a demand for his money upon every taxpayer; yea, upon every widow and orphan in the State. It is said that the necessities of the company constrain them to demand money or its equivalent; that they must go into bankruptcy, and the company be sold out if not immediately relieved. If this be true, I can see no difference to the State, whether this or another company build the road; and, besides, if somebody must be sold out, I prefer that the misfortune should fall on the company, rather than on the people. I had hoped that some plan which would bring no additional burden on the people, would have been acceptable to the company as a basis of settlement; but being disappointed, feel that the State occupies ground upon which her honor is unassailable. No detriment need be feared to the credit of the State. No State or people ever lost their credit, or had it injured, from too much caution in putting out their bonds. It is a reckless and inconsiderate creation of debt and issuance of obligations which arouses the suspicion and excites the alarm of capital. If this bill should become a law, and bonds are issued in conformity with its provisions, I am informed from a source thoroughly posted, one on which the Governor of Texas has a right to call for information on this subject, the correctness of which information I do not question, that the certain and immediate effect would be a marked and decided depreciation of Texas bonds, of every character, arising from three

considerations : 1st. The great increase of the public debt. 2nd. The suspicion naturally resting on any securities of a State whose authorities are inconsiderate and reckless enough to issue bonds in defiance of a public sentiment pledged to resist their payment, and against which legal questions of the gravest character, most seriously affecting their validity, are certain to be made : and 3rd. Because of an impression which would prevail, that the government of Texas had yielded to the power of a great corporation, and was destined to be plundered, as all States have been that have been dominated by that sort of influence. The way to build up and preserve the State's credit, is to ponder well before issuing a promise to pay ; but once issued, to meet it promptly and liberally ; certainly never to issue one when any doubt of its payment exists, or any question affecting its validity remains unadjusted. The bonds of Texas are now worth ninety (90) cents in New York, and steadily advancing, although for four years past, and most fiercely within the last twelve months, she has been assailed by the partizans of the International Railroad Company, in and out of the State, with the charge of repudiation. It seems that impartial and sensible men who have money to invest, have taken a different and more correct view. The credit of Texas is in her own keeping, and as long as *her people*, as contra-distinguished from corporations and their partizans, control the government, it is in safe hands.

Much has been said and written by over-zealous advocates of the payment of this subsidy, of the good faith of the company, and of the moral obligation resting on the State. I am unable to perceive the force of their assertions in this regard, or to concur in their conclusions. A brief recital of the facts attending the origin of this claim, is all that is necessary to vindicate the State against the oft repeated slander of having acted in bad faith in refusing to issue bonds. On the 5th day of August, 1870, when the Legislature, composed for the most part, of strangers to the State and people of Texas, chosen at an election in which less than one-fourth of the taxpayers of the State were allowed to vote, occupied the halls of the Capitol, the agents of the International Railroad Company by the most fraudulent and corrupt means procured the enactment of the charter under which they make the claim. The charter grants \$10,000 per mile for the construction of

a road from Jefferson to Laredo, on the Rio Grande, and exemption from taxation for five years, (which they have enjoyed). Feeling doubtless, that whenever the people of Texas came into possession of the government they would resent this great outrage perpetrated upon them when defenceless, and frustrate this fraudulent attempt to fleece them, the effort was made in this charter to put the whole matter beyond and out of the reach of the people, or of any subsequent Legislature. For this purpose, although the constitution provides that no money shall be drawn from the Treasury, except in pursuance of an appropriation, and that no appropriation shall be made for a longer term than two years; in order to avoid having to come before any subsequent Legislature, for an appropriation to pay the interest on the bonds, this charter provides that for thirty years the Comptroller shall annually assess a sufficient tax upon all the property and occupations in the State to pay the interest and sinking fund upon the subsidy bonds, have it collected and placed in the Treasury, subject to the order of the Governor, who shall pay it to the bondholders. The people are not trusted; any subsequent Legislature, that they might elect, are not trusted to make an appropriation; the charter is so constructed as to be self-sustaining, without the aid, and against the will of the people or Legislature, and if the mandamus case decided last summer, had resulted in their favor, the plan would have been successful. *This is the only law on the statute book of Texas, marked by that peculiarity* since the organization of the government, as it is the only law ever enacted in Texas, which imposes taxes on the people to pay for the construction of a railroad. From the day of the enactment of this charter by the Twelfth Legislature, to the present hour, the world and especially the International Railroad Company, has been notified in every way and by every means through which popular feeling and determination could find expression, that the people of Texas would resist the payment of this subsidy.

The administration under which the charter was enacted refused to issue bonds under it on the first application for them. Contemporaneous with the passage of the charter, public meetings were held in various counties in the State, and the indignation of the people and their determination never to pay the subsidy set forth in resolutions which

were published throughout the country. The press teemed with denunciation of the fraud, and denials of the power of the Legislature to impose this debt on the people. The taxpayer's convention of 1871, the greatest body of representative men who ever assembled in the State, denounced it. A large body of eminent representative men from every portion of the State in 1870, in a memorial to Congress, praying that body to guarantee to Texas a Republican form of government, denounced that charter. The House of Representatives of the Thirteenth Legislature, through a select committee, solemnly held the charter void, because in excess of constitutional power. The last session of this Legislature refused any relief, except to submit the question to the court. There has been one continuing unending protest from the people of Texas against the power of the Twelfth Legislature to grant that subsidy, and the fraud used in procuring it, from the hour of its enactment to this time. If these be facts, and it is believed they cannot be controverted, I cannot see where the equity of the company comes in, or the moral obligation resting upon the State. I cannot see the good faith of the company complying with their part of the contract, and the bad faith of the State in refusing to issue bonds of which so much is said; on the contrary, I see fraud which cannot be the foundation either of an equity or an obligation. I see an advantage taken by a powerful combination of capitalists of a disfranchised people, when they were powerless, for the purpose of "making a good thing."

✓ I can see that this combination has attempted to weave a legal mesh around the people for the purpose of coercing this subsidy from them, without their consent and against their will. I see nothing in these things calling for the gratitude of the people, or placing them under moral or equitable obligation; but most decidedly the reverse. The proposition to open the courts of the State to the company, with a pledge that the State will abide and perform the judgment, if against her, which has been refused, is assuredly a proper one, in order to ascertain whether any legal obligation rests on them to pay this subsidy. If the people have any rights which this company should respect, or any other alternative than to yield to their imperious dictation, this offer should have been gratefully accepted. In considering this general question with a view to its



adjustment, if possible, I view it alone from the standpoint of expediency, as a question of State policy, one involving neither the honor, credit, nor good faith of the State, which she may deal with as her interest seems to require. Regarding it in this light, with all the admitted advantages of the road, the company has never yet signified its willingness to accept any proposition, which, in my judgment, when weighed in the balance with the countervailing objections, is not inadmissible on the score of public policy, leaving out of the estimate the question of the power of the Legislature to accede to this demand.

The objection made to a submission of this controversy to the courts for determination, that the State will be subjected to the risk of having to pay the subsidy on the entire line of the road, amounting to six or seven millions of dollars, is not sustained by the facts. At the special instance and request of the president of the International Railroad Company, and through the agency of his supporters and friends, the Fourteenth Legislature enacted a law, approved on the first day of May, 1874, to be found on page 75 of the Special Laws of that session, granting to that company twenty sections of land per mile for that portion of their line, west of San Antonio, in *settlement* of their claim against the State for bonds. This act is absolute and unconditional. It, in addition, relieves the company from building the road east of Jefferson, thus leaving open the controversy over the subsidy on that part of the line, between Jefferson and San Antonio, three hundred and seventy miles, which at \$10,000 per mile, if the State should lose the suit and have it to pay, would sum up \$3,700,000, and accrued interest.

This is the largest judgment that could be rendered against the State, if the company should recover all their claim.

A reference to the courts would risk only about seven or eight hundred thousand dollars more than this bill proposes to give them absolutely.

The judicial department of the government *is the only proper* authority to settle this matter. If the claim of the International Railroad Company is valid as this bill asserts it to be, legislative jurisdiction and functions were exhausted in the passage of the original act by the Twelfth Legislature. If invalid, this Legislature having no greater power than the Twelfth, cannot give it validity, as is at-



tempted in the bill before me. This is said to be a compromise measure, but instead of acting within the scope of its admitted powers, the Legislature in the passage of this bill assumes and exercises the very powers, the exercise of which by the Twelfth Legislature has produced the controversy they are attempting to settle. The company will accept no other terms than such as do involve the exercise of these powers. It follows then that the Legislature *cannot* settle the question, hence the necessity for a reference to the courts or to the people. In an adjudication of this controversy by the courts, is in my judgment, to be found the proper solution not only of the controversy with the International Railroad Company, but of the claims of Western Texas to benefits to be derived from a construction of the road, for which in common with other portions of the State, that section must be taxed to pay, whatever if anything is paid to the company. If the subsidy should be held valid, the whole line from Jefferson to San Antonio would be built, and the whole State be taxed uniformly to pay it. If held invalid, nothing would be paid by any portion of the State. Under the present bill a large majority of those who are best informed believe that the road would never cross the Colorado. It is my deliberate conviction that it would not, or if it should, that the inducement to do so would be found outside of any offered in this bill. The only hope that I can see for it to do so, lies in a reference to the courts, and the chance of maintaining the legality of the subsidy. I know that distinguished and able gentlemen in the two houses, who have left no stone unturned in their labors for Western interests, think differently, but the opinion is fixed and strong. This opinion is based on the fact that no time is named in the bill within which the company shall *accept* the provisions of the act. They may accept within a month, or a year, or any other indefinite time. Section 4 of the bill provides that on the *acceptance* of the provisions of this act by the stockholders of the company, it shall be the duty of the Governor to deliver subsidy bonds to the president of the company, at the rate of \$10,000 00 per mile, for so much of the road as *may then* be completed, and that the remainder shall be paid rateably per mile on the balance of the road between Jefferson and San Antonio, as it is constructed, reserving \$300,000 00 until it is finished to San Antonio. Now suppose the

company, before accepting the provisions of the act, go to work and build seventy miles of the road between Jefferson and Austin; this, at \$10,000 00 per mile, together with the 200 miles already built, at the same figures, will take up the \$2,700,000 of the subsidy, and the remaining \$300,000 00 which is held as security that they build to San Antonio, they can well afford to forfeit, since it will cost not less than \$600,000 to bridge and cross the Colorado. The company would lose nothing; the interest on bonds for the road already constructed is fixed to run from January 1st, 1875, and on the road to be hereafter constructed, from the date of the inspector's approval of the road. It might be the interest of the company to build the road west of the Colorado, but the inducement to do it would have to be found elsewhere than in this bill. It is my candid conviction that in declining to approve this bill, I serve no section of the State with more fidelity than Western Texas, which, in my judgment, it deludes with a hope of benefits never to be realized, while its burdens would be certain and substantial. Believing that the only possible mode of settling this controversy within the control of the Legislature, is to confer jurisdiction on the courts for the purpose. I reiterate my first recommendation that that course be pursued. If the International Railroad Company will abandon the demands they have persisted in making for bonds and taxation on the people, which the Legislature have not the power to comply with, and will accept in settlement that which we are competent to give, I will meet them in a spirit of liberality which will leave them no cause to complain. If they will accept it in settlement, I not only recommend but urge that exemption from all taxation be granted them for twenty-five years, that twenty sections of land per mile on the entire line of their road be granted them, and am willing to go further, and in order to enhance the value of the scrip, to relieve them from the burden of locating the alternate school sections as all other railroad companies are required to do. The exemption from taxation will cost the people nothing; the capital exempted will be simply that which they will bring and invest here. If, however, to have bonds or nothing, they will get nothing while I occupy the Executive Office of Texas, if a proper exercise of the constitutional power of the Governor will prevent it, except it be under the sanction of a judicial decree, or the ordinance of a constitutional con-

vention. I respectfully ask a re-consideration of this bill, and if the company will accept such settlement as the Legislature have the power to make, that the settlement be made, and the terms given them be liberal; if they will not, then that the courts be opened to them for suit. I hope the Legislature will not adjourn without doing one or the other.

Very respectfully,

RICHARD COKE.

Senator Camp moved that the veto message of His Excellency, and the original bill be referred to a select committee of seven.

Senator Ireland moved, as a substitute, that they be referred to Joint Committee on Constitutional Amendments and Judiciary. Lost by the following vote:

YEAS—Senators Allison, Ball, Baker, Bradshaw, Bradley, Dillard, Davenport, Ellis, Erath, Ireland, Moore, Parker, Russell and Wood—14.

NAYS—Senators Burton, Camp, Dwyer, Flanagan, Friend, Hobby, Joseph, Ledbetter, Morris, Randle, Shepard, Stirman, Swift and Westfall—14.

The vote then recurring on the motion made by Senator Camp, it was carried by the following vote:

YEAS—Senators Allison, Baker, Burton, Camp, Dwyer, Flanagan, Friend, Joseph, Ledbetter, Morris, Moore, Randle, Russell, Shepard, Stirman, Swift, Westfall and Wood—18.

NAYS—Senators Ball, Bradshaw, Bradley, Dillard, Davenport, Ellis, Erath, Hobby, Ireland and Parker—10.

Senator Hobby moved that 20,000 copies of the original bill and message be printed.

Adopted by the following vote:

YEAS—Senators Allison, Ball, Baker, Bradshaw, Bradley, Camp, Dillard, Davenport, Ellis, Erath, Hobby, Ireland, Moore, Parker, Russell, Shepard, Westfall and Wood—18.

NAYS—Senators Burton, Dwyer, Flanagan, Friend, Joseph, Ledbetter, Morris, Randle, Stirman and Swift—10.

Senator Shepard moved that 3000 copies ordered printed, be printed in Spanish, and 5000 in German.

Lost by the following vote:

YEAS—Senators Bradshaw, Bradley, Dillard, Dwyer, Ellis, Russell and Shepard—7.

NAYS—Senators Allison, Ball, Baker, Burton, Camp,

Davenport, Erath, Flanagan, Friend, Hobby, Ireland, Joseph, Ledbetter, Morris, Moore, Parker, Randle, Stirman, Swift, Westfall and Wood—21.

Senator Ball moved that 5000 copies of original bill and message be printed in German, and 2000 in Spanish.

Adopted by the following vote:

YEAS—Senators Ball, Baker, Bradshaw, Bradley, Camp, Dillard, Davenport, Dwyer, Ellis, Erath, Hobby, Ireland, Parker, Russell, Shepard and Wood—16.

NAYS—Senators Allison, Burton, Flanagan, Friend, Joseph, Ledbetter, Morris, Moore, Randle, Stirman, Swift and Westfall—12.

The President announced as the select committee on the veto message of His Excellency, Senators Camp, Wood, Flanagan, Westfall, Erath, Joseph and Ireland.

Senator Westfall offered the following resolution:

*Resolved*, That the Enrolling and Engrossing Committees be authorized to discharge such employees as are incompetent, and employ such as they may deem proper to carry on the businesses of their departments. Adopted.

Senator Stirman gave notice that he would move a reconsideration of the vote by which the Senate refused to pass Senate bill No. 664, "An act to incorporate the Colorado River Rail Road and Slackwater Navigation Company, and to aid in the construction of the same."

Senator Joseph, for Committee on Engrossed Bills, submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Engrossed Bills have carefully examined and compared Senate joint resolution No. 791, "Joint resolution instructing our Senators and requesting our Representatives in Congress to use their earnest endeavors to procure the passage of a law or laws, and an appropriation by the Congress of the United States, to give better protection to our Mexican border; to reimburse the State of Texas for expenditures incurred in protecting the line of the Rio Grande river," etc., and find the same correctly engrossed.

JOSEPH, for Committee.

Senator Westfall, for Committee on Enrolled Bills, submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Enrolled Bills ask leave to report that they have carefully examined and find correctly en-

rolled, the following Senate bills, to-wit: Senate bill No. 504, "An act supplemental to and amendatory of 'an act to incorporate the Austin and Pacific Short Line Railroad Company.' " Senate bill No. 593, "An act to incorporate the Kaufman Tap Railroad Company;" and Senate bill No. 480, "An act to amend 'an act to incorporate the Lake City Railway Company, and to aid the construction of the said railway,'" approved May 2, 1874, and have this sixth day of March, 1875, at 10:45, o'clock A. M., presented the same to the Governor for his approval.

W. H. WESTFALL, for Committee.

The President of the Senate handed in the following communication from His Excellency:

EXECUTIVE OFFICE, STATE OF TEXAS,  
AUSTIN, March 4th, 1875.

*Hon. R. B. Hubbard, President of the Senate:*

I have the honor to hand you herewith the captions of all bills and joint resolutions passed by the Legislature, and approved by me since February 18, 1875.

Very respectfully, RICHARD COKE.

House bill No. 211, "An act regulating the sale of land under executions and judicial decrees;" approved February 22d, 1875.

House bill No. 560, "An act to amend an act entitled 'an act to establish a Penal Code for the State of Texas;'" approved August 26th, 1856; approved October 18th, 1871; approved February 22d, 1875.

House bill No. 696, "An act to amend section one of an act entitled 'an act for the relief of railroad companies indebted to the State for loans from the special school funds;'" approved February 22d, 1875.

House bill No. 803, "An act for the relief of James F. Lyon;" approved February 24th, 1875.

Senate bill No. 481, "An act supplementary to and amendatory of an act entitled an act to amend sections seven, ten and twenty of an act entitled 'an act to incorporate the Tyler Tap Railroad Company;'" passed May 7th, 1873; approved February 25th, 1875.

Senate bill No. 547, "An act to validate the acts of J. B. B. Supple, Notary Public of Bell county;" approved February 25th, 1875.

Senate bill No. 557, "An act prescribing the times of holding the district courts in the Thirteenth Judicial District of the State of Texas, and to repeal 'an act passed by the Fourteenth Legislature;'" and approved May 1st, A. D. 1874; approved February 25th, 1875.

Senate bill No. 696, "An act to amend the second section of 'an act to reorganize the Seventh, Eighth and Eleventh Judicial Districts, and to fix the time of holding the courts therein;'" approved February 25th, 1875.

Senate bill No. 691, "An act regulating the times of holding the terms of the District Court in the Fifteenth Judicial District;" approved February 25th, 1875.

House bill No. 805, "An act to amend an act approved May 2d, 1874, entitled an act to amend an act approved March 4th, 1871, entitled an act to amend 'an act prescribing the time of holding the district courts in the several judicial districts of this State;'" approved August 10th, 1870; approved February 25th, 1875.

Senate bill No. 545, "An act authorizing the Commissioner of the General Land Office to employ additional help for the business of said office;" approved February 27th, 1875.

Senate bill No. 628, "An act to authorize the county court of DeWitt county, to have a bridge built across the Sandies creek in said county;" approved February 27th, 1875.

Senate joint resolution No. 611, "Joint resolution concerning the vacant lands in Fisher and Miller's Colony;" approved February 27th, 1875.

Senate bill No. 651, "An act to amend 'an act to incorporate the Dallas and Wichita Railroad Company,' and to aid in the construction of said road," and approved May 24th, 1873; approved February 27th, 1875.

Senate bill No. 495, "An act to authorize the county court of Galveston county to use certain special funds in the payment of her bonded debt;" approved February 27th, 1875.

Senate bill No. 488, "An act to encourage the construction of a canal from or near the Marble Falls, on the Colorado river, to the city of Austin;" approved February 27th, 1875.

Senate bill No. 508, "An act for the relief of such counties and incorporated cities or towns, as have voted donations in aid of the construction of railroads or other works of

internal improvement, under the provisions of an act entitled 'an act to authorize counties, cities and towns to aid in the construction of railroads and other works of internal improvement;' " approved April 12th, A. D. 1871, which said act was repealed on the twenty-second of April, A. D. 1874; approved February 27th, 1875.

Senate bill No. 734, "An act to authorize the corporation of the town of Henderson, in Rusk county, to aid in the construction of the 'Henderson and Overton Railroad,' " became a law without the Governor's approval March 4th, 1875.

House bill No. 581, "An act to amend the 12th section of an act entitled 'an act to regulate ferries;' " approved January 23d, 1850; approved March 4th, 1875.

Senate bill No. 644, "An act to incorporate the Fairfield, Hillsboro and Cleburne Railway Company, and to grant lands to aid in the construction thereof;" approved March 4th, 1875.

House bill No. 774, "An act to add the counties of Shackelford, Taylor and Callahan to the Thirty-fourth Judicial District, and prescribe the times of holding court in said district;" approved March 4th, 1875.

Senate bill No. 731, "An act to legalize the work as Notary Public, of R. W. Walton, J. C. Bartlett and J. C. Baird, of Navarro county;" approved March 4th, 1875.

Senate bill No. 707, "An act to amend section 324 of 'an act prescribing the mode of proceeding in the district courts in matters of probate;' " approved March 4th, 1875.

House bill No. 760, "An act for the relief of persons interested in the University lands, sold under the provisions of an act entitled 'an act for the sale and disposition of the University lands, approved August 30, 1856, and an act amendatory thereof, approved November 12, 1866;' " approved March 4th, 1875.

House bill No. 231, "An act to incorporate the Galveston Cotton Exchange;" approved March 4th, 1875.

Senator Shepard asked leave to make a personal explanation, and said:

MR. PRESIDENT: I rise to a question of privilege; absence has prevented my doing so before.

I call attention to the following extract from an Austin dispatch to the *Houston Daily Age*, of February 28, viz:

PRIVATE CONFABS.

"On Friday evening, Governor Coke sent his private Secretary, Dashiell, to the Senate chamber for Seth Shepard,

who obeyed the summons, and was closeted with His Excellency for a short time, when he returned to the House, and either sent or escorted Mr. Wood into the Governor's office, where he, (Wood) stayed a short time, and when he returned to the House it was to do as he had previously been doing, that is, to oppose the compromise and vote for the Storey substitute.

The above is not true. I was to see the Governor on the day named on business. The Governor did not ask me to send Hon. Mr. Wood to him, nor did I send or escort him to the Governor's office. If such a visit was made, (and Mr. Wood says it was not) I knew nothing of it.

I make this statement in justice to the Governor, because I see that other papers have copied the *Age* dispatch, and some of them have charged him with attempting to influence the action of members of the Legislature.

I am satisfied, from the general course of the *Age*, and the fairness and accuracy of its reports, that the dispatch was based upon some idle rumor perhaps, which the correspondent neglected to investigate.

On motion of Senator Bradley, the Senate adjourned until 10 o'clock A. M. Monday.

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## FORTY-SEVENTH DAY.

SENATE CHAMBER, )  
AUSTIN, March 8th, 1875. )

Senate met pursuant to adjournment. Roll called; quorum present. Prayer by Rev. W. W. Keep, recently of Memphis, Tenn. Journal of Saturday read and adopted.

Senator Flanagan, Chairman Committee on Counties and County Boundaries, submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Counties and County Boundaries, to whom was referred a petition of citizens of Hood and Bosque counties, "asking the Legislature to create the county of Biloxi," have had the same under consideration, and instruct me to report the accompanying bill, and recommend its passage.

FLANAGAN, Chairman.